

WILMERHALE

April 16, 2015

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Judge Paul A. Crotty, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street, Chambers 1350
New York, NY 10007

Re: *Donoghue v. Achillion Pharmaceuticals, Inc., et al.*, No. 1:14-cv-8353-PAC (S.D.N.Y.)

Dear Judge Crotty:

I write on behalf of nominal defendant Achillion Pharmaceuticals, Inc. (“Achillion”) in response to the defendants’ request for a pre-motion conference in anticipation of their filing motions to dismiss the complaint in the above-captioned matter pursuant to Federal Rule of Civil Procedure 12(b)(6).¹

As the nominal defendant, Achillion will be the beneficiary of any profit disgorgement awarded as a result of any properly plead 16(b) claim on which plaintiffs ultimately prevail. Accordingly, rather than answer the currently pending, but not yet consolidated or amended *Donoghue* complaint, Achillion seeks to and will review the parties’ pleadings addressing the legal sufficiency of plaintiffs’ claims and respond to the parties’ 12(b)(6) pleadings when filed. To that end, Achillion joins in the defendants’ current request for a pre-motion conference either at the presently scheduled conference on May 7, 2015 or at such other time that is convenient for the Court and parties.

Respectfully submitted,

/s/ John F. Batter III

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¹ On January 21, 2015, the Court ordered that *Roth v. RA Capital Management, LLC*, No. 1:14-cv-8594-PAC (S.D.N.Y.) be consolidated with this action and terminated. See Dkt. 22. Plaintiffs have yet to file a consolidated or amended complaint.

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CERTIFICATE OF SERVICE

I, John F. Batter III, hereby certify that on April 16, 2015, I served the foregoing document upon all registered counsel in the case via the Court's CM/ECF system by filing the document electronically with the Clerk of Court.

Boston, Massachusetts

/s/ John F. Batter III